

## Federal Maritime Commission

## § 502.74

excluding exhibits or appendices, without leave of the presiding officer. [Rule 71.]

### § 502.72 Dismissals.

(a) *Voluntary dismissal.* (1) *By the complainant.* When no settlement agreement is involved, the complainant may dismiss an action without an order from the presiding officer by filing a notice of dismissal before the opposing party serves either an answer, a motion to dismiss, or a motion for summary decision. Unless the notice or stipulation states otherwise, the dismissal is without prejudice.

(2) *By stipulation of the parties.* The parties may dismiss an action at any point without an order from the presiding officer by filing a stipulation of dismissal signed by all parties who have appeared. In the stipulation the parties must certify that no settlement on the merits was reached. Unless the stipulation states otherwise, the dismissal is without prejudice.

(3) *By order of the presiding officer.* Except as provided in paragraphs (a)(1) and (a)(2) of this section, an action may be dismissed at the complainant's request only by order of the presiding officer, on terms the presiding officer considers proper. If the motion is based on a settlement by the parties, the settlement agreement must be submitted with the motion for determination as to whether the settlement appears to violate any law or policy and to ensure the settlement is free of fraud, duress, undue influence, mistake, or other defects which might make it unapprovable. Unless the order states otherwise, a dismissal under this paragraph is without prejudice.

(b) *Involuntary dismissal; effect.* If the complainant fails to prosecute or to comply with these rules or an order in the proceeding, a respondent may move to dismiss the action or any claim against it, or the presiding officer, after notice to the parties, may dismiss the proceeding on its own motion. Unless the dismissal order states otherwise, a dismissal under this subpart, except one for lack of jurisdiction or failure to join a party, operates as an adjudication on the merits.

(c) *Dismissing a counterclaim, crossclaim, or third-party claim.* This rule

applies to dismissals of any counterclaim, crossclaim, or third-party claim.

[79 FR 76902, Dec. 23, 2014]

### § 502.73 Order to show cause.

The Commission may institute a proceeding by order to show cause. The order must be served upon all persons named therein, must include the information specified in § 502.143, must require the person named therein to answer, and may require such person to appear at a specified time and place and present evidence upon the matters specified. [Rule 73.]

### § 502.74 Exemption procedures—general.

(a) *Authority.* The Commission, upon application or on its own motion, may by order or regulation exempt for the future any class of agreements between persons subject to the Shipping Act of 1984 or any specified activity of those persons from any requirement of the Act if the Commission finds that the exemption will not result in substantial reduction in competition or be detrimental to commerce. The Commission may attach conditions to any exemption and may, by order, revoke any exemption.

(b) *Application for exemption.* Any person may petition the Commission for an exemption or revocation of an exemption of any class of agreements or an individual agreement or any specified activity pursuant to section 16 of the Shipping Act of 1984 (46 U.S.C. 40103). A petition for exemption must state the particular requirement of the Shipping Act of 1984 for which exemption is sought. The petition must also include a statement of the reasons why an exemption should be granted or revoked, must provide information relevant to any finding required by the Act and must comply with § 502.76. Where a petition for exemption of an individual agreement is made, the application must include a copy of the agreement. Unless a petition specifically requests an exemption by regulation, the Commission must evaluate the petition as a request for an exemption by order.

(c) *Participation by interested persons.* No order or regulation of exemption or